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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/880,834	06/15/2001	David A. Dalman	358362001101	7037

7590 02/17/2004

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EXAMINER

COLE, ELIZABETH M

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 02/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/880,834

Applicant(s)

DALMAN ET AL.

Examiner

Elizabeth M Cole

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 04 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 1-10, 13-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Weber et al, U.S. Patent No. 5,233,821. Weber et al disclose fabrics containing polybenzazole fibers. The fibers may be formed into yarn which comprise continuous filaments. The filaments may be held together by the application of a finish. See col. 5, lines 16-18. The optimum denier of the yarn may be at least 50 denier, more preferably atleast about 200 denier. Claims 1, 13 and 15 are therefore anticipated.

The PBO polymers disclosed by Weber et al contain the claimed mer units, (col. 2, line 18 et seq). Claims 2-7 are therefore anticipated by Weber et al.

The fibers are usually collected into yarns prior to making a fabric, (col. 5, lines 9-10). Claim 8 is therefore anticipated by Weber et al.

The benzazole polymer fibers may be combined with a cotton, polyester, nylon or rayon fibers, (col. 6, lines 18-20). Therefore claims 9 and 10 are anticipated by Weber.

Weber et al teach a vest made from the PBO fabric, (claims 13 and 15). Therefore, these claims are anticipated.

The fibers may have a denier of 50-2000 denier which encompasses the claimed range. See col. 5, lines 22-30.

3. Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weber, Jr. et al in view of Dumbar et al, U.S. Patent No. 5,119,512. Weber discloses fabrics containing PBO fibers as set forth above. Weber differs from the claimed invention because

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Weber does not disclose incorporating the fibers into a matrix resin. Dumber teaches that cut-resistant fibers which are formed into fabrics suitable for use as protective garments may be impregnated with a matrix resin. See col. 4, lines 20-31 and col. 6, lines 54-65. Dumber teaches that coating the fabric helps to protect the fibers and provide an additional physical barrier to the fabric during use. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have impregnated the fabric of Weber as taught by Dumber. One of ordinary skill in the art would have been motivated to impregnate the Weber fabric in order to protect the fabric as taught by Dumber.

4. Applicant's arguments filed 12/4/03 have been fully considered but they are not persuasive. Applicant argues that Weber does not teach untwisted fibers and does not teach the claimed denier. However, as set forth above, Weber teaches that the filaments in the yarn may be held together by twisting, entangling or by application of a finish. Therefore Weber teaches an untwisted yarn. Weber also teaches a minimum denier of at least 50 which is less than 500. See col. 5, lines 9-30.

The Declaration under 37 CFR 1.132 filed 12/4/03 is insufficient to overcome the rejection of claims based upon Weber as set forth in the last Office action because: the rejection is made under 35 USC 102(e) and therefore cannot be overcome by a showing of unexpected results.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

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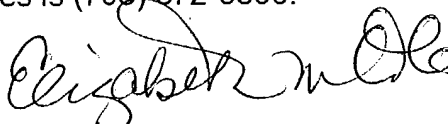
TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth M. Cole whose telephone number is (571) 272-1475. The examiner may be reached between 6:30 AM and 6:00 PM Monday through Wednesday, and 6:30 AM and 2 PM on Thursday.

Mr. Terrel Morris, the examiner's supervisor, may be reached at (571) 272-1478.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

The fax number for all official faxes is (703) 872-9306.



Elizabeth M. Cole  
Primary Examiner  
Art Unit 1771